



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

NOV -5 2014

Mr. Michael Corwin, Treasurer  
Independent Source PAC  
11024 Montgomery Blvd. NE #128  
Albuquerque, NM 87111

RE: MUR 6701

Dear Corwin:

On December 11, 2012, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 23, 2014, based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the allegation that Independent Source PAC misreported cash on hand balances, in violation of 52 U.S.C. § 30104(b)(1), (4) and (6)(B)(v) (formerly 2 U.S.C. § 434(b)(1), (4), and (6)(B)(v)), and close its file in this matter. Accordingly, the Commission closed its file in this October 23, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Wanda Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Independent Source PAC  
6 and Michael Corwin as treasurer

MUR 6701

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8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed by Mark Knoop, Executive Director of  
10 the Republican Party of New Mexico, alleging violations of the Federal Election Campaign Act  
11 of 1971, as amended (the "Act")<sup>1</sup>, and Commission regulations by Independent Source PAC and  
12 Michael Corwin in his official capacity as treasurer (collectively the "Committee").<sup>2</sup> After  
13 reviewing the record, the Commission dismissed the allegation as to the Committee.

14 **II. FACTUAL AND LEGAL ANALYSIS**

15 **A. Factual Background**

16 Complainant alleges a discrepancy between the Committee's ending cash on hand  
17 balance of \$254,625.45 reported in its 2012 July Quarterly Report and its beginning cash on  
18 hand balance of \$9,165.28 reported in its 2012 October Quarterly Report.<sup>3</sup> Compl. at 1 (Dec. 5,  
19 2012).

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<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 of the United States Code to new Title 52 of the United States Code.

<sup>2</sup> The Complainant and Respondents were parties in MUR 6573, which concerned allegations that the Committee failed to disclose independent expenditures and failed to include proper disclaimers in television advertisements. As to these Respondents, the Commission found no reason to believe that the Committee violated 52 U.S.C. § 30104(g) (formerly 2 U.S.C. § 434(g)) and dismissed allegations that the Committee violated 52 U.S.C. § 30120(d) (formerly 2 U.S.C. § 441d).

<sup>3</sup> In addition to alleging violations falling under the Act, the Complainant alleges other illegal conduct related to "receiving and distributing emails that were stolen from Governor [Susana] Martinez's political committee." Complainant claims that the FBI is investigating the issue. Compl. at 1.

1 The Committee admits that there was a discrepancy between the relevant cash on hand  
2 balances, but attributes the difference to a “technical glitch” that it claims occurred when the  
3 funds from two receipts itemized on its Schedule A, report of receipts, were disbursed and  
4 itemized on its Schedule B, report of disbursements, but were not subtracted from the available  
5 cash on hand by the FEC software. Resp. at 1-2 (Dec. 31, 2012). Specifically, the Committee  
6 claims that a \$30,000 receipt on April 11, 2012, from the Communication Workers of America  
7 (“CWA”) was transferred from its federal account to its state account on April 12, 2012, and that  
8 a \$220,000 receipt on June 11, 2012, from CWA was refunded as an excessive contribution for  
9 “bookkeeping purposes” on June 20, 2012. *Id.*

10 The Committee claimed that it itemized both as disbursements on its Schedule B, but  
11 that the FEC software did not automatically subtract them from the total receipts, which resulted  
12 in an inflated cash on hand balance on the Committee’s 2012 July Quarterly Report. *Id.* at 2.  
13 According to an e-mail attached to the Response, on June 12, 2012, the Committee Treasurer  
14 spoke with a representative in the Electronic Filing Office regarding “technical issues of [his]  
15 own creation.” Resp., Attach.

16 In January 2013, the Reports Analysis Division (“RAD”) sent a Request for Additional  
17 Information (“RFAI”) to the Committee regarding the cash on hand discrepancy.<sup>4</sup> In February  
18 2013, the Committee amended its 2012 July Quarterly Report to disclose the Committee’s  
19 \$30,000 transfer to its state account and the \$220,000 refund to CWA, and to correct the

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<sup>4</sup> RFAI (April 4, 2013) available at <http://docquery.fec.gov/pdf/093/13330028093/13330028093.pdf>.

1 resulting cash on hand balance.<sup>5</sup> It appears that the Committee has properly amended its  
2 disclosure reports to accurately reflect the disbursements in question and to disclose an accurate  
3 cash on hand balance in its 2012 July Quarterly Report.

4 **B. Legal Analysis**

5 Committees are required to disclose disbursements and cash on hand balances accurately.  
6 52 U.S.C. § 30104(b)(1), (4), and (6)(B)(v) (formerly 2 U.S.C. § 434(b)(1), (4), and (6)(B)(v));  
7 11 C.F.R. § 104.3(a)(1) and (b). Committees are also responsible for the timely and complete  
8 filing of disclosure reports and for the accuracy of the information contained therein. 11 C.F.R.  
9 § 104.14(d). Here, the Committee acknowledges that the ending cash on hand balance reported  
10 in its 2012 July Quarterly Report was inaccurate. The Committee claims that the error was due  
11 to an FEC software failure. We note that the Committee's Treasurer apparently sought  
12 assistance in amending a different disclosure report and an FEC representative was able to walk  
13 him through filing the amendment. Resp., Attach. However, the information provided in the  
14 Response does not discuss a software failure or indicate that Mr. Corwin sought assistance from  
15 the Electronic Filing Office regarding the disbursements in question. *Id.* Thus, it is possible that  
16 the error was due to the incorrect entry of the disbursements. Nevertheless, the Committee  
17 promptly responded to an RFAI in order to amend its disclosure reports.

18 Exercising its prerogative to order its priorities, the Commission determined that further  
19 resources were not warranted. Accordingly, the Commission exercised its prosecutorial  
20 discretion and dismissed this matter pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>5</sup> 2012 July Quarterly Report of Receipts and Disbursements (Amended Feb. 15, 2013) available at  
<http://docquery.fec.gov/pdf/515/13960938515/13960938515.pdf>.